THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 13510 OF 2004

6th December, 2005

Between:

Naseebulla Khan Warasi …Petitioner

A N D

1. The Mandal Revenue Officer, Mandanapalle

and another …Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 13510 OF 2004

O R D E R :

1. This writ petition has been filed by Naseebulla Khan Warasi with a prayer to issue writ, order or direction more particularly one in the nature of writ of mandamus directing the respondents to protect his legal right over Survey No. 627/8 admeasuring Ac. 0-35 cents.

2. The petitioner claims that his father was granted license on 11-3-1991 for planting trees over Survey Nos. 626/1, 627/6, 227/8, 628/4 and 628/8 admeasuring Ac.1-42 cents, Ac.2-00, Ac.0-52 cents and Ac.0-54 cents respectively of Kollabylu revenue village of Madanapallee Mandal, Chittoor District. It is his further case that after the death of his father, he has been in possession and enjoyment of the trees which have been planted by his father after obtaining necessary license from the 1st respondent.

3. It is the grievance of the petitioner that the Mandal Educational Officer, Mandanapalle Mandal-2nd respondent high handedly tried to interfere into the land bearing Survey No. 627/8 admeasuring Ac.0-35 cents and attempted to construct a school by removing the trees without following due process of law.

4. 1st Respondent filed counter affidavit. It is stated in the counter affidavit that the land bearing Survey No. 627/8 is a Government land and the same has been entered in the Prohibitory Order Register vide proceedings Roc No. E1/6838/01, dated 18-3-2002. Para 4 and 5 of the counter affidavit need to be noted and they are:

> "*In reply to para 3 of the affidavit, it is submitted that the allegation of the petitioner is that this respondent orally instructed the public to trespass into the land Sy.No.627/8 in an extent of Ac.0-35 cents and trying and proposed to construct the school by removing the trees without following due process of law I hereby denied in toto. It is submitted that neither this respondent instructed orally to the public to trespass into the schedule land nor interfered any sort of activity in the schedule land. There is only one temporary thatched hut raised by the villagers of Venkateswarapuram for running a Mandal Parishad Primary School which is granted by the Government of Andhra Pradesh.*
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> *In reply to para 5 of the affidavit, it is further submitted that since the land in Sy.No. 627/8 is a Govt. land and the same has been entered into Prohibitory Order Book Register vide proceedings of the Collector, Chittoor in Roc.No.E1/6838/01, dated 18-03-2002, the other allegations made in the Writ Petition are need not be traversed. It is submitted that the Writ Petitioner approached this Hon'ble Court by inviting the jurisdiction under Article 226 of Constitution of India without any cause of action. Hence, the Writ Petition does not deserve any interference by this Hon'ble Court. Hence, the writ petition may be dismissed with costs except the lands in Sy.No. 627/8*

to an extent of Ac. 0-35 cents. I also pray the Hon'ble High Court that the stay orders issued in the Writ Petition vide WPMP No. 17303 of 2004 in WPMP 13510 of 2004 may kindly be cancelled in the interest of justice".

5. When the case came up for hearing on 19-10-2005, the learned counsel for the petitioner submitted arguments to some extent and then sought for time. Subsequently, the case underwent two adjournments at the instance of the petitioner and it came to be listed under the caption for orders on this day.

7. Learned counsel for the petitioner submits that the father of the petitioner has been granted license for planting trees in Survey Nos. 626/1 admeasuring Ac. 1-42 cents, S.No. 627/6 admeasuring Ac. 2-00, S.No. 627/8 admeasuring Ac. 0-35 cents, S.No.628/4 admeasuring Ac. 0-52 cents and S.No.628/8 admeasuring Ac.0-54 cents and thus the action of the respondents in taking steps to evict the petitioner from the lands is arbitrary and illegal.

8. Learned Government Pleader for Revenue submits that the land in question has been entered in the Prohibitory Order Book Register and thus permitting any one to plant the trees over the land is not legal and proper. He further submits that the petitioner is not in possession of the land and therefore, the question of respondents high handedly dispossessing him does not arise.

9. A fact remains that no license has been granted in favour of the petitioner for raising trees in the land in question. If there is any license in favour of the father of the petitioner the same terminates with death of his father and unless the license is renewed in his name, he has no claim over the trees, even if there are any, in the land in question.

10. In that view of the matter, I find that the petitioner is not entitled for any relief.

11. Accordingly, the writ petition is dismissed. No order as to costs.

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Justice B.Seshasayana Reddy

6th December, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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